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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1309th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 3 March 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Fourteenth periodic report of Finland (CERD/C/320/Add.2; HRI/CORE/1/Add.59/Rev.2)

1. At the invitation of the Chairman, Mr. Huhtaniemi, Mr. Aarnio, Mr. Laakkonen, Mr. Kosonen, Mr. Rytövuori, Mr. Cortés Téllez and Ms. Hagelstam (Finland) took places at the Committee table.

2. Mr. HUHTANIEMI (Finland) said that, as Finland's culture had become less homogeneous, human rights issues had become more prominent in both domestic and foreign policies. Finland welcomed the involvement of non-governmental organizations (NGOs) in human rights issues, and he drew attention to the "shadow" report produced by the Finnish League for Human Rights in parallel with the Government's periodic report. Finland also strongly supported human rights monitoring mechanisms such as the Committee. Its delegation represented bodies dealing with issues of relevance to the Convention.

3. Mr. AARNIO (Finland), introducing the periodic report (CERD/C/320/Add.2), which was intended, inter alia, to answer questions raised by the previous report, said he would concentrate on developments in the previous 18 months. At the end of 1997, foreign nationals, numbering 85,000, had accounted for 1.7 per cent of Finland's population. That was not a large proportion but numbers had risen rapidly and issues relating to immigrants as well as traditional national minorities had been receiving more attention.

4. The 1995 reform of the constitutional provisions on fundamental rights, mentioned in the periodic report (para. 3), had had a significant impact on subsequent legislation. For example, under new educational legislation, children permanently resident in Finland - and that included immigrants - had a duty and a right to attend school. Immigrant children's special needs in terms of mother-tongue instruction, religious education and preparation for school must now also be taken into account, and there were arrangements for preparatory education for vocational education. Special provisions and subsidies had also been introduced for the education, at all levels, of Sami and Roma children.

5. New legislation, expected to enter into force in May 1999, provided for immigrants to be granted an integration benefit subject to their participation in preparing and implementing plans for their own integration. It included certain services and measures that would increase municipalities' obligations towards immigrants and thus enhance cooperation between immigrants and local authorities, thus also improving majority attitudes towards immigrants.

6. Amendments to the Aliens' Act had abolished the Asylum Appeals Board, whose powers were now vested in the judiciary, and had extended the legal remedies available to immigrants. A further amendment, due to enter into force in the autumn, would make it possible to apply the Administrative Procedure Act to matters falling within the scope of the Aliens' Act.

Authorities would be obliged to actively assist asylum seekers and immigrants' right of appeal would be extended. The amended Act would set forth the objectives of immigration and refugee policy and provide clear guidelines for its application. A resident's permit could be issued on the basis of a need for protection, rather than requiring, as before, strong humanitarian grounds.

7. Pre-trial investigation procedures had been reformed and responsibility for investigating police offences had been transferred to independent prosecutors. Amendments to the Nationality Act had speeded up the processing of applications for nationality and provided for a right of appeal. Parliament had approved an amendment to the Constitution opening up more elected public offices to foreigners. The Government intended to replace the Ombudsman for Aliens with an Ombudsman against Ethnic Discrimination, with broader powers.

8. Finland had also paid attention to the training of authorities at all levels and to the dissemination of information, as exemplified by a governmental Decision-in-Principle issued in early 1997 on measures for promoting tolerance and combating racism. The main aim, however, was to encourage immigrants and minorities to play a greater part in matters concerning themselves. Half the members of the new Advisory Board for Ethnic Relations, which had replaced the Advisory Board for Migrant and Refugee Affairs, were representatives of immigrants and traditional minorities, and those groups were also represented on the independent Commission against Racism, Xenophobia, Anti-Semitism and Intolerance. Referring to the sections of the periodic report dealing with the situation of the Sami and the Roma, he drew attention to the representative nature of the Advisory Boards for those groups, and to the latters' involvement in provincial working groups. Representative local and national associations were working with traditional minorities, including the Sami, Tatars, Old-Russians and Jews, and with immigrants - in one case specifically immigrant women - in cooperation with the authorities and NGOs, to improve their rights, promote tolerance and integration and arrange cultural activities and contacts.

9. The police authorities had been making efforts to improve police dealings with immigrants and minorities. New instructions, information materials and training courses had been devised with a view to increasing tolerance and preventing racism among the police. The police authorities had also carried out a study on offences with racist motives committed in 1997.

10. As a result of a survey of attitudes to the Roma carried out by Finland's largest daily newspaper, the Minister for European Affairs had requested the Prosecutor General to investigate discrimination against them by Helsinki restaurants. In 1997 the Ministry of Justice had ordered public prosecutors to bring charges against a journalist for insulting blacks and refugees; and more recently had ordered the Prosecutor General to bring a charge in a case of ethnic agitation in Joensuu. A case in which a teacher had been fined for a racist insult had been important in raising awareness.

11. Courts were increasingly faced with offences with racist motives. Wide media coverage of their judgements helped increase public awareness, as in the recent case of a racist slur by a teacher, who had been fined and had to pay compensation. Courts had discretion to increase a penalty if the motive for

an offence was racist, even when that was not explicitly provided by law. Consideration was being given to amending provisions on sentences in the pending reform of the Penal Code. District prosecutors were not obliged to report offences with significant social consequences - including politically or racially motivated offences. Compliance by district prosecutors would be verified.

12. The Government had responded in its periodic report (paras. 145-152) to the Committee's recommendation that Finland should prohibit and punish organizations promoting and inciting racial discrimination. Since the submission of that report, the Ministry of Justice had begun preparing legislation that would punish participation in criminal organizations. In addition, in late 1998, all the parliamentary political parties and their youth organizations had signed the Charter of European Political Parties for a Non-Racist Society. A candidate for election to Parliament had recently been excluded from the list of candidates after he had been convicted for ethnic agitation.

13. A number of studies had been carried out on ethnic relations and the attitudes of authorities and citizens and more resources had been allocated for such studies. As a result of one such study, more emphasis would in future be placed on foreign cultures when training police and border guards. A survey was also being conducted on the attitudes of the entire population towards immigrants and minorities, a study on ethnic discrimination at work was under way, and one on the treatment of ethnic issues and immigration policy in the media was to be initiated shortly. A national system for monitoring ethnic discrimination was gradually being set up between 1998 and 2000. Anti-racist attitudes were becoming more prevalent in society; after a seminar arranged by the Church, for example, priests had declared racism a sin, an opinion that had attracted much attention. The Church had also invited the Sami Thing (Parliament), formerly the Sami Parliament, to send a representative to the Church assembly. Sami war veterans and their families had been associated with Finland's independence anniversary celebrations.

14. With regard to the media, new legislation provided for radio and television programmes in the Finnish, Swedish, Sami and Roma languages. The Sami had their own radio channel and text TV, while the Roma had newspapers in Finnish, although containing some Roma, as well as a weekly news broadcast in Roma; the news was also broadcast in Russian. Sami culture generally was becoming increasingly important in Finland and the Government allocated special resources (Fmk 1 million in 1998 and in 1999), through the Sami Thing, for the promotion of Sami culture and organizations. Other government funds were set aside to promote minority cultures and publications and to combat racism. In addition, schools conducted campaigns on human rights issues, including the prevention of racial prejudice, and publications on those issues had been produced for use in schools.

15. The Sami land rights issue still presented an obstacle to Finland's ratification of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Ministry of Justice had recently begun to give much closer attention to the issue, following a comment made by the United Nations Human Rights Committee and a decision by Finland's Assistant Chancellor of Justice.

16. With regard to the definition of a Sami, the Sami Thing believed that the existing definition, used in its parliamentary elections, did not guarantee the implementation of Sami rights. There was concern that it might make it possible for even non-Samis to vote. However, the Ministry of Justice, owing to a lack of unanimity on the measures to be taken, had for the time being dropped plans to make a connection between knowledge of the Sami language and the definition of a Sami. The electoral committee of the Sami Thing had just rejected over 1,000 applications from the descendants of Lapps to be enrolled on the electoral register, while some 400 applications had been accepted on linguistic grounds. That decision could be appealed against in the Supreme Court, but the Government was unable to comment on it in the meantime. The Ministry of Justice would be monitoring the election in order to determine whether legislative measures were needed.

17. Regarding Roma rights, considerable socio-economic differences remained between the Roma and the majority of Finland's population. Problems existed in the areas of housing, unemployment and education, and social exclusion was common. Two rapporteurs had been appointed by the Ministry of Social Affairs and Health to draft a report giving an overview of the situation and the special needs of the Roma and reviewing current government policy and legislation and ways of developing it, particularly with regard to social affairs and education.

18. He informed the Committee that the Finnish Minister for Foreign Affairs had submitted the first national report on the human rights policy of the Finnish Government to the Foreign Affairs Committee of Parliament in November 1998. The rights of minorities and indigenous peoples had been defined as being among the main areas of concern for the current Government, and Finland was also actively working in international forums to promote the rights of indigenous peoples and to combat racism. The rise in the number of immigrants had led to active drafting of legislation, and to education, information and campaigns, and the public debate had become livelier and more fruitful. The activities of the small number of extremist racist groups had become more visible, but the previously silent majority was being increasingly encouraged to speak out against racism.

19. The members of the delegation, all experts in the protection of minority rights in their respective fields of administration, would scrupulously convey the Committee's comments to the Government and looked forward to a fruitful dialogue. It was Finnish Government policy to encourage NGOs to comment on the periodic reports to the human rights treaty bodies. He regretted that the delegation might be unable to give detailed answers to the comments raised by the Finnish League for Human Rights, owing to the late receipt of its report, but he pointed out that there appeared to be some inaccuracies and a lack of balance in the text.

20. Mr. SHERIFIS (Country Rapporteur) welcomed the wealth of information in the introductory statement, which he regretted not having seen earlier, since it appeared to answer some of the comments and questions he had prepared. The periodic report was drafted in accordance with the Committee's guidelines and endeavoured to respond to its previous questions and recommendations. He welcomed the fact that several NGOs had participated in drafting the report.

21. He acknowledged the steps taken by Finland to advance, entrench and modernize its human rights protection system and the significant reforms made by Act of Parliament 969/1995 and the second part (578/1995) of the reform of the Penal Code, as described in the report. One regrettable omission was that there was no law prohibiting and punishing racist organizations for activities promoting and inciting to racial discrimination, which meant that Finnish legislation still fell short of the requirements of article 4, paragraph (b) of the Convention. The State party's obligation to enact such legislation under article 4 was particularly critical in the light of the apparent significant increase in racially motivated acts and violence in recent years. If he had understood it correctly from the oral introduction, Finland was in the process of complying with that provision of the Convention, so perhaps his concern would soon be met. The Committee often had difficulty convincing States parties of the crucial importance of fully implementing article 4.

22. Chapter 11, section 9, and chapter 47, section 3, of the Penal Code went a long way towards complying with the Convention's provisions on discrimination in employment, provision of services and admission to public places on grounds of racial, national or ethnic origin; but the number of cases brought before the courts was disappointingly low, given the allegations in the Finnish League for Human Rights "shadow" report of the actual incidence of cases.

23. Finland was to be commended for having ratified many international conventions and instruments in the field of human rights. However, the statement in paragraph 18 of the report that Finland had not ratified ILO Convention No. 169 because Finnish legislation was not in conformity with the provisions of the Convention was somewhat puzzling. A partial explanation was provided in paragraph 75, and he hoped that the reference made to it in the introductory statement would subsequently prove to satisfy the concerns of the Committee.

24. Paragraph 80 referred to a movement of a group of citizens which had arisen in the Sami homeland to oppose Sami cultural autonomy; what were the real arguments of the group? Were its members of Sami origin? If not, its action amounted to racial discrimination, and action should be taken.

25. It was regrettable that the issue of the land rights of the Sami people had not yet been resolved, but he welcomed the fact that measures were under way. Paragraph 75 implied that the Government was anxious to proceed with regulating land rights but was prevented by delays for which the Sami Parliament was responsible; it was an unfortunate conclusion, since the delays were not in the interests of the Sami people. He noted that the proposed Act whereby forests within the Sami homeland would have become common land owned by Sami villagers had not been adopted by Parliament.

26. He appreciated the recognition, in the Constitution, of the Sami and Roma peoples and of their right to develop their language and culture, although there seemed to be significant difficulties in the actual enjoyment and development of those rights. The existence of Advisory Boards for both groups, and the right of the Sami to communicate with the authorities in their mother tongue and be consulted on issues affecting them through their representatives were important, as was the possibility for Sami and Roma

pupils at primary and secondary levels to be taught in their mother tongue. Certain human rights instruments had been translated into Sami but additional efforts were necessary to provide both minority groups with all human rights instruments in their own languages.

27. Despite all the efforts by the Government, it appeared that much remained to be done to eliminate de facto discrimination against minority groups, particularly in the areas of housing, employment and services. Credit was due to the Government for the steps taken and envisaged to train government agencies to help overcome racist attitudes and institute procedures to remedy the effects of identified discrimination. Commendable measures included those taken to promote racial tolerance, the establishment of a Parliamentary Ombudsman, of the Ombudsman for Aliens, who would in future become the Ombudsman against Ethnic Discrimination, and of the Advisory Board for Refugee and Migrant Affairs, the introduction of a human rights curriculum in schools, the reform of the Finnish Constitution in 1995 to incorporate the provisions of the international instruments, and the extension of the application of fundamental rights to non-citizens. He welcomed Finland's declaration under article 14 and its ratification of the amendments to article 8 of the Convention. However, the possibility of individual petition needed to be widely publicized, since people who were unaware of their rights were unable to exercise them.

28. He had been impressed by the Decision - in principle - of the Council of State on Measures for Promoting Tolerance and Combating Racism, but asked whether its guidelines referred only to governmental departments and could therefore not be invoked in court. He welcomed the fact that fundamental rights applied to all persons within the jurisdiction of Finland. The Advisory Boards and commissions, of which there were many, were important if they had genuine power, but the Finnish League for Human Rights claimed that was not the case; could the delegation clarify that issue? He welcomed the Action Plan against Racism as described in paragraph 39 of the report, but looked forward to the speedy implementation of the principles it laid down since implementation was the key to the results the Committee sought.

29. On refugee policy, he felt that a quota of 500 persons per year was rather modest for a country of the size and wealth of Finland, as indeed was the projected increased quota of 1,000. He acknowledged the frankness of the statement that reuniting families was difficult because legislation was not sufficiently specific, that shortcoming needed to be rectified, as it was an important humanitarian issue. Currently, applicants were not entitled to appeal against decisions, although the delegation could perhaps elaborate on measures taken since the drafting of the report. Paragraph 115, quoting the Aliens' Act, stated that "No one may be ..., deported to an area where he/she may be subjected to persecution or inhuman treatment, nor to a safe area from which he/she may be further sent to such an area"; he hoped that applied equally to those seeking asylum in Finland and facing such dangers.

30. Paragraph 150 stated that the Ministerial Group on Good Ethnic Relations had concluded that the Committee's previous observations did not call for any changes to Finnish legislation in regard to article 4; he hoped that that decision would be reviewed, and by the time the next report was submitted the Finnish authorities would have come around to the Committee's way of thinking

on the implementation of that article. Had the bill submitted to parliament in February 1997, proposing more severe punishment for an offence if motives of discrimination were involved, been adopted?

31. With regard to the implementation of article 5, and specifically the investigation of offences committed by the police, the report by the Finnish League for Human Rights complained of several cases of police misconduct; did the delegation have any comments? With reference to paragraph 163 of the report, had the proposed measures for promoting tolerance and combating racism, recognizing the central role of the police in preventing and investigating manifestations of racism, been taken? Under the section on "political rights", he welcomed the fact that immigrant candidates had been nominated for several municipal councils.

32. Did the special relationship of the Nordic countries really justify the distinction made in granting the right to nationality, for which Nordic citizens required only two years' residence, as opposed to the five years' residence required by other foreign applicants? Surely that was a case of discrimination by preference? The statement in paragraph 186, that if an association aimed at influencing government affairs, the members must be either Finnish citizens or foreigners whose country of residence was Finland meant that effectively foreigners were deprived of the right to try to influence government policies even on issues which might be of direct concern to them, which was a serious weakening of freedom of association.

33. If adopted, the Decision-in-Principle of the Council of State, included various measures to counter discrimination in the labour market, along the lines suggested by the Committee in its conclusions on the previous report. It was a serious issue, as the statistics showed. According to paragraph 212 of the report, about 50 per cent of all immigrants were unemployed, with the rate for Finns being over 17 per cent. The discrepancy between the two figures was considerable, and the argument advanced by some that foreigners could hardly be hired if there were not even enough jobs for Finnish citizens clearly did not hold water. He welcomed efforts by the Finnish Government to resolve the issue, including the study which the Ministry of Labour would prepare to provide information on discrimination in the labour market.

34. Concerning article 6, it was reported (para. 278) that in 1995 there had been a total of 11 offences involving discrimination within the meaning of the Penal Code. The "shadow" report asserted, however, that few incidents actually ended up in the courts.

35. According to paragraph 280, cases of assault stemming from xenophobia were relatively rare in Finland, and an estimated 5 per cent of all cases of assault had been sparked by a racist motive. To his mind, 5 per cent was a rather high percentage and such cases could not be termed "rare".

36. Turning to article 7, he welcomed the measures taken for the training of Frontier Guard staff, prison administration staff and prosecutors, as well as the continuation by the Advisory Board for Refugee and Migrant Affairs of the programme called "Towards a Tolerant Finland" (para. 329). With regard to the paragraphs on informing the public about the Convention (paras. 345-347), he

was pleased that the Convention was published in the Treaty Series of the Statutes of Finland, especially since he had been unable to find the International Convention on the Elimination of All Forms of Racial Discrimination in paragraph 51 of the court document he had consulted listing human rights conventions published in the Finnish and Swedish languages. It was to be hoped that that omission was unintentional. Paragraph 346 also stated that the thirteenth and fourteenth periodic reports would be published in Finnish and widely distributed. Had that been done? Did the Finnish Government also intend to publish the debate in the Committee and its concluding observations? Would the Finnish Government consider the possibility of a seminar as a follow-up to the Committee's deliberations?

37. He commended the Finnish Government for its very detailed report and the constructive dialogue which the Government maintained with the Committee. Finland had every possibility of becoming a model for other countries.

38. Mr. VALENCIA RODRIGUEZ, congratulating the Finnish delegation on its exceptionally comprehensive report, said that the Committee was pleased to learn of the revision of the Finnish Constitution's main provisions on fundamental rights, which constituted a major improvement of the rights of ethnic minorities and foreigners, and of reforms to the Penal Code, prohibiting genocide and ethnic discrimination. He also welcomed the creation of the Ombudsman for Aliens and the Ministerial Group on Good Ethnic Relations and looked forward to learning more about the achievements of those bodies, which fulfilled an important function in monitoring compliance with the Convention. Likewise, the Committee sought information on any reforms conducive to strict implementation of articles 2 and 4 of the Convention, a subject which had been raised in the Action Plan against Racism approved by the Ministerial Group in May 1996.

39. Turning to the situation of the Sami population, the Sami Thing, formerly the Sami Parliament, had found that the Penal Code (chap. 11, sect. 8) did not comply in full with article 4 of the Convention and the Finnish Government should therefore review the subject; that present Finnish legislation did not secure the Sami's rights to land, water and natural resources or their right to traditional livelihoods; that it was necessary to study the possibility of extending the application of the Act on the Partition of Waters to include the Sami communities; that Finland had not yet ratified ILO Convention No. 169 and that consideration should be given to removing legal obstacles to doing so; and that measures needed to be taken to combat racist anti-Sami movements.

40. Discrimination against the Roma population continued to be a burning problem. Such discrimination was particularly acute in housing and employment, blatant cases having been denounced which required a thorough investigation and the adoption of urgent measures to prevent and eliminate such practices. Consideration should be given to integrating Sami and Roma in the police forces. He also noted the lack of administrative institutions for the Sami and Roma population groups. The educational level of the Roma population must be improved.

41. As to the persistence of racist groups, the Finnish Government acknowledged that there were ultranationalist and racist groups in Finland but did not believe that it was necessary to ban them; it was therefore necessary to reiterate the Committee's recommendation that the Finnish Government should review its compliance with the provisions of article 4 of the Convention; that would also require a number of legislative amendments. The unemployment level was not unrelated to the growth of such racist groups, since the Finns thought that the presence of foreigners was prejudicial to their own employment chances.

42. The policy of classifying as "safe" certain countries of origin of foreigners in general and asylum seekers in particular, a practice which in most cases could prove very subjective, should be halted.

43. The Committee was pleased that Finland was giving greater attention to publicizing its periodic report and the Committee's concluding observations and recommendations. It was to be hoped that it would continue doing so, particularly in the languages of the Sami population, and collect any comments to which they gave rise.

44. Mr. BANTON said that the racial situation in many respects resembled that found in many other Western European countries, whose policies could be summed up as being too little, too late: an explanation was that effective legislation prohibiting racial discrimination could lose political parties votes. The only response to that attitude was better public education, in particular by investigations, such as those promoted by the International Labour Organization into incidents of discrimination in employment. He therefore welcomed the information provided by the Finnish delegation on research in progress, which had an important role to play in encouraging more progressive government action.

45. Most supporting States tended to focus on what their Governments had been doing, whereas the Convention concentrated on protecting potential victims. The Committee was interested in seeing how each of the rights set out in the Convention was implemented in practice, an area in which NGOs could be of invaluable assistance. It was gratifying to note that for the second time the Committee had received a highly professional "shadow" report from the Finnish League for Human Rights on the situation in Finland.

46. On the implementation of article 4, paragraph 148 stated that punishment could be imposed for discrimination against a population group. Although he understood the sentiment behind that paragraph, it would be more persuasive if actual examples could be given of punishment that had been imposed for such acts. He was surprised to learn that in 1997 the Ministry of Justice had ordered the public prosecutors to bring charges against a reporter, and that prosecutors did not have the right to take such steps on their own initiative. A reference had also been made to the courts having an increased power of punishment where offences were racially motivated. If that meant that prison sentences had become mandatory for such offences, then Finland was coming more into line with the practice in a number of other countries in Europe.

47. According to paragraph 164, the police were under an obligation to record any instances of racially or ethnically motivated acts against a member of a minority group. That did not mean that they actually did so. In that connection, the report by the Finnish League for Human Rights stated that only 10 per cent of immigrants having experienced racial discrimination had reported those incidents to the police (page 7). That tallied with similar data in other European countries and was an indication of the magnitude of the problem. Before long, priority would have to be given to the recruitment of members of ethnic minorities by the police and the armed forces. Steps currently being taken in Norway might serve as an example, and Finland might also profit from some of the sad lessons learned in his own country.

48. Regarding the question of the Sami, paragraph 61 gave the Sami population in 1995 as about 7,000. Presumably that had been the total population, and not the number of persons of Sami origin on the electoral register. It needed to be borne in mind that there were nearly as many Sami living in urban areas as in the north; not all were reindeer breeders and many were leading lives which were outwardly indistinguishable from the ethnic majority. Regarding reindeer herders, the report of the Finnish League for Human Rights (page 13) referred to a road which was to be built through the middle of the Lemmenjoki National Park which would be detrimental to their interests. When a decision to construct such a road was taken, what were the procedures whereby the decision-makers were able to strike a balance between the interests of reindeer herders and those of other groups? Was there any provision for paying compensation to groups which suffered damage arising from such construction?

49. Mr. van BOVEN regretted that the report of the Finnish League for Human Rights had reached the Committee so late, making it difficult to give it all the attention it deserved. He also wondered whether it was not incomplete, since it only went up to article 4.

50. Having reviewed the fourteenth periodic report of Finland in the light of the Committee's 1996 concluding observations, he was pleased that the observations had been systematically addressed, although in certain instances the Finnish Government had pursued an approach different from the one recommended by the Committee. Although very comprehensive, the report might have provided more examples of case law in addition to the ones given in paragraph 281.

51. Concerning article 6 of the Convention, what kind of compensation was awarded to a person who had been the victim of racial discrimination? Had there been any such awards?

52. The report had been somewhat brief in its treatment of article 3. That provision dealt not only with apartheid, but also segregation patterns or tendencies. The question arose whether any such tendencies had been observed, particularly in residential areas in Finland.

53. Concerning the Roma, who, as the report acknowledged, constituted a disadvantaged group, he thought that affirmative action, i.e. special measures, were needed on their behalf in housing and employment, in keeping with article 2 (2) of the Convention. With regard more specifically to the

right to housing, paragraph 221 of the report stated that the majority of Roma lived in municipal rented flats and that prejudices often made it difficult for Roma to acquire a flat on the open market but that they had succeeded rather well in finding public housing. That circumstance was of relevance to the Convention, which, in article 2 (1) (d), required measures, including legislation, to prohibit and bring to an end racial discrimination by any persons, group or organization - that included private persons or organizations. Was there any legal provision which could be used to combat discrimination by private persons? According to the report of the Finnish League for Human Rights (page 14), Finnish law did not afford effective protection against municipal authorities, which discriminated against Roma persons when renting publicly owned housing. In that connection, it was important to refer to article 2 (1) (c) of the Convention, which required States parties to take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which had the effect of creating or perpetuating racial discrimination wherever it existed. Did the Finnish Government have the means of taking corrective action when local communities discriminated against Roma?

54. Turning to article 7 of the Convention, would the Finnish Government provide funding to organizations carrying out activities in the framework of the forthcoming United Nations World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance? Finland's most recent contribution to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination had been in 1985. Although there was no obligation to make contributions to the Fund, any renewed contribution would certainly be welcome.

55. Paragraph 35 of the 1997 report on Finland of the Council of Europe's European Commission against Racism and Intolerance referred to recent reports of racist incidents in Finland, observing that a more overt commitment at the political level would provide a framework for debate and allow the administrative bodies dealing with such problems to develop a coherent and coordinated strategy to tackle them. Could the Finnish delegation comment on that recommendation?

56. Mr. NOBEL said that there was a continuous conflict between Sami interests, occasionally coupled with environmental interests, and the interests of developers and exploiters of mining, forestry, water and other resources and tourist attractions. There should be a legal mechanism to determine whether or not the exploitation of certain assets was necessary and its decisions should be subject to appeal. As matters stood, the politically and legally weaker Sami seemed to be forced to compromise in every dispute. The Nordic legal concept of land ownership was incompatible with the traditional Sami approach to land rights. He therefore encouraged the Finnish authorities to ratify ILO Convention No. 169. He was sure that the problem represented by article 14 of that Convention, which stipulated, inter alia, that the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupied should be recognized, could be overcome with a measure of goodwill. Recent research into the history of the Sami people had shown that the legal basis for their rights was far more solid than had previously been thought. Article 14 of the ILO Convention further stipulated that measures should be taken in appropriate cases to safeguard the

rights of the peoples concerned to use lands not exclusively occupied by them but to which they had traditionally had access for their subsistence and traditional activities. Particular attention in that connection was to be paid to the situation of nomadic peoples and shifting cultivators. The fact that most of the land traditionally occupied or used by the Sami people was State-owned forest should make it easier to find a solution.

57. Mr. GARVALOV, after commending the impressive report and introductory statement, said that Finland believed that section 14 (3) of the Constitution safeguarded the right of the Sami, Roma and other groups to maintain and develop their languages and cultures. However, while the section required that the right of the Sami to use their language before the public authorities should be enforced through an Act of Parliament, it made no mention of the corresponding rights of Roma and other groups.

58. Finland had ratified the European Charter for Regional or Minority Languages and the Council of Europe Framework Convention for the Protection of National Minorities. How did Finland interpret the term "national minority" and what ethnic groups residing in Finland were covered by the Framework Convention? The World Directory of Minorities published by Minority Rights Group International provided detailed statistics for minority groups in Finland, but paragraph 56 of the Finnish report stated that official population statistics did not contain information on minorities. The subsequent paragraphs gave the impression that groups were distinguished mainly in terms of language (Swedish, Russian, etc.), although they were also of different ethnic origin from the Finns. Did Finland recognize the separate ethnic origin of those groups in the context of the Framework Convention?

59. The use of the terms "foreigners", "aliens", "immigrants" and "refugees" gave rise to some confusion. The Russian-speaking population, which constituted the second largest "linguistic minority", comprised eighteenth-century Russian settlers, Russian citizens and citizens of the former Soviet Union, including Estonians. How many were categorized as foreigners, aliens, refugees or immigrants and on what basis?

60. Table 2 in paragraph 71 of the report listed Finland's population by mother tongue and gender. He wondered why the 24 non-Finnish language groups had not been listed according to ethnic origin. Which body was responsible for attending to their interests: the Ombudsman for Aliens or the Advisory Board for Refugee and Migrant Affairs? According to paragraph 32, the Ombudsman for Aliens was not responsible for national minorities. Again, the question of who constituted a national minority arose. Section 14 (3) of the Constitution described the Sami as an indigenous people and paragraph 77 of the report referred to them as an indigenous people and a national, ethnic and linguistic minority. The delegation in its introductory statement had used the term "traditional minorities" and appeared to draw a distinction between such minorities and immigrants, the Sami as the sole indigenous people, the Roma, the Tatars, the Old Russians and the Jews.

61. According to paragraph 147 of the report, loosely organized ultranationalist and racist action groups existed in Finland, but they were not "significant" organizations or political parties and were not even

registered in many cases. Article 4 of the Convention did not distinguish between significant and insignificant or between registered and unregistered racist groups. All such groups must be declared illegal and prohibited.

62. He congratulated Finland on the impressive action it had taken to implement article 7 of the Convention. Had the authorities assessed the effectiveness of those measures, as recommended in the joint study of article 7 prepared in 1998 by two members of the Committee and two members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities?

63. Mr. de GOUTTES said that Finland's excellent and informative report had been prepared with the participation of not only government ministries but also NGOs, labour organizations and advisory bodies. He commended the practice of referring to the Committee's concluding observations in the headings of the various sections. Finland was one of the 27 States parties that had made the declaration under article 14 and one of the 16 European States that had accepted both the Committee's individual communication procedure and the individual petition procedure of the European Court of Human Rights.

64. Paragraphs 10 to 15 of the report described the provisions of the Penal Code dealing, inter alia, with genocide, ethnic agitation, and discrimination in the provision of services and in recruitment and employment. But, as noted by the Committee during its consideration of the twelfth report and by the Council of Europe Commission against Racism and Intolerance in 1997, racial and ethnic origin were not explicitly mentioned in article 5 of the Constitution. The Penal Code did not recognize as an offence the dissemination of ideas based on racial superiority or hatred, as required by subparagraph 4 (a) of the Convention, and it also failed to prohibit racist organizations and propaganda and to recognize participation in such organizations or activities as an offence punishable by law, as required by subparagraph 4 (b).

65. The report acknowledged that ultranationalist and racist groups existed and he was not fully convinced by the argument in paragraph 148 that it was unnecessary to punish such associations because their leaders and employees could be punished for discrimination and agitation. He was not convinced either by the argument that the banning of an association was inconsistent with the principle of freedom of association or expression. He drew attention to the Committee's General Recommendation XV concerning the interpretation of article 4. He therefore noted with regret that the Finnish Ministerial Group on Good Ethnic Relations had not considered it necessary to act on the Committee's suggestions for legislative reform. On the other hand, he welcomed the intention to replace the Ombudsman for Aliens by an Ombudsman against Ethnic Discrimination.

66. Referring to the bill mentioned in paragraph 152 of the report proposing that racial or ethnic motives should constitute grounds for increasing the severity of the punishment imposed for an offence, and to the delegation's introductory statement that the need to amend the provisions governing sentencing in such cases was being considered, he asked what progress had been made to date.

67. He was struck by the low figures given in paragraph 278 for court proceedings for offences involving discrimination. Moreover, those found guilty were all sentenced to fines. Although a number of prison sentences had been handed down for assault, the judicial authorities seemed, on the whole, to attach little importance to racist offences. The report of the Commission against Racism and Intolerance had referred to the ongoing difficulties encountered by victims who wished to take legal action against such offences.

68. Mr. YUTZIS said he had been pleasantly surprised by the frank and self-critical approach adopted in the Finnish report. Some of the issues it raised were difficult to address because of a range of complicating factors. An indigenous people such as the Sami would find it extremely difficult to preserve its cultural autonomy unless it owned the land on which it lived. The Sami's cultural identity was based not only on history and language but also on their natural and physical environment. The report provided an insight into the conflicts of interest involved. As reported in paragraph 80, a group of Finnish citizens had distributed 10,000 copies of a magazine opposing Sami cultural autonomy. He welcomed the recent rejection of the broader definition of a Sami advocated by that group. In the so-called global economy, profitable investment prevailed over ethnic rights. Ethnic groups without economic and financial clout could only defend themselves through self-advocacy, State assistance and the solid legal backing provided, for example, by ILO Convention No. 169.

69. According to paragraph 64 of the report, an unregistered number of Roma had arrived in Finland in recent years as refugees. How could the authorities tell that the new arrivals were refugees if they were not registered?

70. He noted with regret that, according to paragraph 93, no Roma candidate had been elected to Parliament or to municipal councils.

71. He had received information to the effect that the authorities withheld the passports of persons awaiting a decision on an application for residence, thereby depriving them of their freedom of movement. He asked the delegation to comment.

72. With regard to immigration and refugee policy, he welcomed Finland's decision to abandon the listing of safe countries of origin and replace it by a list of safe countries of asylum. He wished to know which countries had been listed formerly. According to the last sentence of paragraph 122, chain deportations were to be avoided when the new list was applied. Did that mean that chain deportations were permissible pending the application of the new list?

The meeting rose at 6 p.m.